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October 19, 2021

VIA ECF

The Honorable Gary R. Brown  
United States District Judge  
Eastern District of New York  
100 Federal Plaza, Courtroom 840  
Central Islip, New York 11722

Re: *Chrysafis et al. v. Marks et al.*, No. 2:21-cv-02516-GRB-AYS

Dear Judge Brown:

I write as Plaintiffs' counsel in response to the Court's October 18 Order directing counsel to "meet and confer to establish a joint briefing schedule and present the Court with dates upon which counsel is available for" an in-person hearing.<sup>1</sup>

Counsel have met and conferred and propose the following joint briefing schedule and hearing date: The State will file opposition papers by November 1; Plaintiffs will file reply papers, if any, by November 4; and the parties propose a hearing on November 8.

If the Court is not available on November 8, Plaintiffs respectfully request that the hearing be held on November 5 (with Plaintiffs waiving reply papers). The State's counsel previously expressed her availability on that date (*see* Dkt. 93), but has not consented to an evidentiary hearing on that date. But in light of the irreparable harms that Plaintiffs continue to suffer with each passing day, which this Court already found (*see* Dkt. 74 at 2, 6, 11-12), we respectfully request a hearing as soon as possible.

In addition, Plaintiffs propose—and the State understands that this is how we propose to proceed for both sides—that the Court treat the prior preliminary injunction record as part of the record on this application; accept witness declarations from both sides as the witnesses' direct testimony; and, if the Court or the other side wishes to ask questions of the witness or cross-examine, then the witness will be produced at the hearing for a short direct examination and for questioning. This will expedite the parties' preparation and streamline the hearing, allowing Plaintiffs' renewed challenge to be fully heard in a timely manner.

We appreciate the Court's consideration.

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<sup>1</sup> The October 18 Order also denied Plaintiffs' application by Order to Show Cause to the extent it was construed as a request for a virtual preliminary injunction hearing. Plaintiffs now accept the Court's invitation to renew that part of their application as an application for a live preliminary injunction hearing.

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Respectfully,

/s/ Randy M. Mastro  
Randy M. Mastro

cc: All counsel of record (via ECF)